

NO. 07-12-00399-CV  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL B  
SEPTEMBER 27, 2012

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ELISEO CERDA, SR., APPELLANT

v.

OFELIA D. GARCIA, APPELLEE

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FROM THE 96TH DISTRICT COURT OF TARRANT COUNTY;  
NO. 096-246065-10; HONORABLE R. H. WALLACE, JUDGE

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Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

**ON MOTION TO DISMISS**

Appellant, Ofelia D. Garcia, filed a notice of appeal from the trial court's March 29, 2012 Judgment. Eliseo Cerda, Sr., then filed a notice of cross-appeal. By order, this Court severed Cerda's cross-appeal from cause number 07-12-00168-CV, into the present cause.

On September 17, 2012, Cerda filed a motion to dismiss his cross-appeal. No decision of this Court having been delivered to date, we grant the motion. Accordingly, Cerda's cross-appeal is dismissed. See TEX. R. APP. P. 42.1(a)(1). As there was no contrary agreement of the parties included in Cerda's motion, all costs related to this

cross-appeal are assessed against Cerda. See TEX. R. APP. P. 42.1(d). If dismissal will prevent cross-appellee from seeking relief to which she would otherwise be entitled, the Court directs cross-appellee to file a timely motion for rehearing.<sup>1</sup> No motion for rehearing from cross-appellant will be entertained.

Per Curiam

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<sup>1</sup> As stated in the order of severance, Garcia's appeal in cause number 07-12-00168-CV, remains pending and will proceed in due course.